

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

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| Conservation Law Foundation, Inc. |) | |
| |) | |
| Plaintiff |) | |
| |) | |
| v. |) | Civil Action No. |
| |) | 1:18-cv-00996-PB |
| New Hampshire Fish and Game Department, et al., |) | |
| |) | |
| Defendants |) | |
| |) | |

STATE'S OBJECTION TO PLAINTIFF'S MOTION FOR CLARIFICATION

NOW COME Glenn Normandeau, Robert Phillipson, David Patch, Paul G. McInnis, Christopher Hodgdon, Eric G. Stohl, Ray Green, Marc Lachance, Paul DeBow, Frederick T. Bird, Christina Luppi, and Bruce Temple (“Defendants”) by and through their counsel, the Office of the Attorney General (collectively the “State”), and hereby object to Plaintiff’s Motion for Clarification. In support of this objection, the State avers as follows:

1. On November 27, 2019 and December 3, 2019, respectively, the State and the Conservation Law Foundation (“CLF”) each filed cross-motions for summary judgment. Docs. 44 & 47.
2. On December 31, 2019, the United States Environmental Protection Agency (“EPA”) issued a draft new National Pollution Discharge Elimination System (“NPDES”) permit for the Powder Mill Fish Hatchery. Docs. 53-3 (EPA Public Notice) & 53-4 (Draft Permit).
3. On March 25, 2020, the Court held a telephonic status conference on the parties’ cross-motions for summary judgment. During the conference, the Court announced that it would

be denying summary judgment on all “Direct Discharge” claims, without prejudice to the parties refiling.

4. On April 2, 2020, the parties filed a Joint Motion to Continue Trial and Extend Other Case Deadlines. Doc. 64.

5. On April 6, 2020, the Court issued a Memorandum & Order memorializing the decisions made at the March 25, 2020 status conference, including the denial of “the parties’ motions for summary judgment as they pertain to the Direct Discharge claims, without prejudice to their right to re-file once the new NPDES permit issues.” Doc. 65 at 8.

6. On April 7, 2020, the Court’s Memorandum & Order was served on the parties through the Court’s ECF system.

7. On April 7, 2020, the Court endorsed the parties’ joint motion to continue, and a trial notice issued scheduling trial for the two-week period beginning on August 4, 2020.

8. On April 27, 2020, CLF filed a Motion for Clarification of the Court’s Memorandum & Order of April 6, 2020, to which the State now objects.

9. A memorandum of law in support of this objection is filed herewith.

WHEREFORE, for the reasons set forth in the concurrently filed memorandum of law, the State respectfully requests that this Honorable Court deny CLF’s motion for clarification and grant such further relief as is equitable and just.

Respectfully submitted,

GLENN NORMANDEAU;
ROBERT PHILLIPSON;
DAVID PATCH;
PAUL G. MCINNIS;
CHRISTOPHER HODGDON;
ERIC G. STOHL;
RAY GREEN;
MARC LACHANCE;
PAUL DEBOW;
FREDERICK T. BIRD;
CHRISTINA LUPPI; and
BRUCE TEMPLE

By their attorney,

GORDON J. MACDONALD
Attorney General

Date: May 11, 2020

/s/ Christopher G. Aslin

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has this day been forwarded via the Court's

Electronic Case Filing System to:

Thomas F. Irwin, Esq.
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Concord, NH 03301

Heather A. Govern, Esq.
Conservation Law Foundation
62 Summer St.
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Date: May 11, 2020

/s/ Christopher G. Aslin

Christopher G. Aslin